Petition

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ALEXANDER L. STEVAS,
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NO. 81-771

IN THE

Supreme Court of the United States

OCTOBER TERM 1981

CONSTANTIN STEPANENKO,
Petitioner,

v.

EDWARD J. VAN TASSEL, CHARLES R. DI GISI, HARVEY SORKOW, LYNNE STROBER & VICTOR HART,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

CONSTANTIN STEPANENKO
Petitioner

P. O. Address:
20 Wendell Street, Apt. 36E
Hempstead, New York 11550

QUESTIONS PRESENTED FOR REVIEW

1. Does the United States District Court shall have original jurisdiction of a civil action to redress the deprivation of the Law and the Civil Rights secured by the Constitution of the United States.

2. Does the Court of the State have constitutional and legal rights to abuse the federal judicary policy of reserved domestic matters to the courts of the states and to make the citizens of the United States defective, even a chain and torch has to be used.

3. Why the citizen suffering legal wrong shall be out of the Law and the Constitution of the United States.

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To the Honorable Chief Justice and Associate Jastice of the Supreme Court of the United States:

I, petitioner, CONSTANTIN STEPANENKO, respectfully request for a writ of certiorari issue to review the Order of the United States Court of Appeals for the Third Circuit, filed on July 29, 1981, affirmed the Order of the United States District Court

for New Jersey to dismiss my Complaint and demand for a trial for lack of subject matter jurisdiction.

My Complaint and demand for a trial to the United States District Court arises from unconstitutional and illegal matrimonial case proceeding at the state court.

OPINIONS BELOW

The Attorney General of New Jersey, in his letter dated April 2, 1980, denied my allegations against the defendants and refused to be of further assistance, printed at pages A-1 to A-2.

The Order dismissing my Complaint for lack of subject-matter jurisdiction of the United States District Court for the District of New Jersey dated October 22, 1980 with the Memorandum of even date by Vincent P. Biunno, U.S.D.J., printed at pages B-1 to B-5.

The Order affirming the district court order of the United States Court of Appeals for the Third Circuit dated July 27, 1981 and filed on July 29, 1981, printed at page C-1.

JURISDICTION

By the Attorney General of New Jersey, letter dated April 2, 1980, I was denied and refused in the state to secure constitutional and legal case proceeding in the state court.

The United States District Court's Order, dated October 22, 1980, to dismiss my Complaint and demand for a trial for lack of jurisdiction, unabled me to redress the depriviation of law and the Civil Rights.

The United States Court of Appeals' Order, dated July 29, 1981, affirmed the District Court's Order, opposing and invalidating the law and the Constitution of the United States.

Jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1).

STATUTES INVOLVED

Title 28 United States Code, Section 1343 (3) which states:

"The district court shall have original jurisdiction of any civil action authorized by law to be commanced by any person:"

"(3) To redress deprivation, under color of any State law, statute, ordinance, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States."

Title 28 United States Code, Section 1443 (1) and (2) which states:

"Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States....."

"(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof."

"(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law."

Article XIV Amandment to the Constitution of the United States, Section 1 states:

> "..... No State shall make or enforce any law which shall abridge the privilege or immunites of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

I, petitioner, Constantin Stepanenko, make this Petition to the Supreme Court of the United States from the Order of the United States Court of Appeals for the Third Circuit, Civil Action 80-2661, entered on the day of July 27, 1981 to affirm the United States District Court for New Jersey, Civil Action 80-1314, the Order entered on the day of October 22, 1980 to dismiss my Complaint and demand for a trial for lack of subject matter jurisdiction.

The primary case was a matrimonial case in the Superior Court of New Jersey,

Hackensack, Bergen County, Civil Action M-25640-76.

For a brief review of the case proceeding in the Superior Court of New Jersey see my Complaint printed at pages E-1 to E-7. However, the case proceeding in this Court is a matter of the trial demanded by me.

I filed in the United States District Court for the District of New Jersey my Complaint with a demand for a trial of my allegations against the defendants, the judges of the state court and the attorneys at law, their unconstitutional and illegal activity during the matrimonial case proceeding, intentional negligence, justice obstruction, unequal protection by the law and obstruction to appeal, to dissolve the family establishment protecting and rewarding wilful desertion even a chain and torch has to be used, as I experienced when I proved a false, to make the people defective so the lawyers can secure their profit and interest.

I filed my Complaint in the United States District Court since I was refused by the Attorney General of the State of New Jersey to investigate my allegations and to secure constitutionality and legality at the state court.

In the United States District Court the trial before a jury was approved and the judge Vincent P. Biunno was assigned to the case.

Meanwhile, the defendants filed Motion to dismiss my Complaint reversing the subject matter of my Complaint from injustice and conspiracy to the failure to state a claim upon which relief can be granted and that a federal court has no jurisdiction over a matrimonial case.

The hearing of the defendants Motion, to dismiss my Complaint, was placed on calender for October 27, 1980. The Attorney General of New Jersey confirmed with a letter dated October 6, 1980 that the hearing will be on

October 27, 1980.

But, an illegal hearing in the United States District Court was held on October 20, 1980, later alleged by the defendants in their Briefs to the United States Court of Appeals (see page D-1), without my presence and without notification or the judge's order.

The result of the hearing was a conspiracy with the judge Biunno to reverse the subject matter of my Complaint from injustice to a relief and the judge Biunno's Order of October 22, 1980 to dismiss my Complaint for lack of jurisdiction and I was directed to the courts of New Jersey.

The judge Biunno's Order I answered with Notification of Unconstitutionality and Illegality deemed by the United States Court of Appeals as Appeal.

In my Notification/Appeal I pointed that the subject matter of my Complaint was illegaly reversed by the District Court to

have a ground to dismiss my Complaint and demand for a trial and that there is nothing I can do in the New Jersey courts where I was obstructed in the justice and more than that punished when I proved a false, and I can not return to the New Jersey courts until the justice will be granted and it can be done only with a trial of my allegations in the federal court.

On my Motion and Petitions to the United States Court of Appeals to expedite the case, the Court entered the Order, by the Chief Judge Seitz and Circuit Judges Rosenn and Higginbothan, on the day of July 27, 1981 to affirm the District Court Order to dismiss my Complaint and demand for a trial, without any explanation since there is no constitutional and legal ground for such affirmation.

ARGUMENT

THE COURT OF APPEALS INVALIDATED THE CIVIL RIGHTS AND THE LAW OF THE UNITED STATES AFFIRMING DISTRICT COURT ORDER TO DISMISS MY COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION. THE DISTRICT COURT HAS ORIGINAL JURISDICTION OF ANY CIVIL ACTION BY ANY PERSON WHO IS DENIED OR CANNOT ENFORCE AT THE STATE EQUAL CIVIL RIGHTS PROTECTION.

The subject matter of my Complaint is injustice and conspiracy, unconstitutionality and illegality at a state court.

To reverse the subject matter of Complaint to a failure to state a claim upon which relief can be granted is a fraud and felony to have a ground to dismiss Complaint for lack of jurisdiction and to mislead the court from the subject of Complaint.

I made my Complaint to the United States District Court because I could not to

secure constitutional and legal matrimonial case proceeding at the courts of the State of New Jersey.

Concerning to the jurisdiction of the federal courts the Law and the Constitution of the United States are positively clear.

I believe that no authorities or cases citations, which are relative to the particular cases, can or may be used in contradiction to the Constitution and the Law of the United States.

Unconstitutionality and illegality can occur in any case including a matrimonial case.

There is no judgement neither a trial nor a legal hearing of my allegations against the defendants' unconstitutional and illegal activity.

The district judge Biunno's Memorandum, to the Order to dismiss my Complaint, is presumption and prejudice without verification the facts thru the trial.

I do not object the federal judicary policy of reserved domestic matters to the courts of the states unless the federal judicary policy is abused and used under color of law and authority to dehumanize the people.

Concerning to the note of the Attorney General of New Jersey that the judges cannot be sued, as I noted in my Brief to the Court of Appeals, I want to remind that we are the witnesses that even the President of the United States has to answer, before the court, allegations of illegal activity, unless he was pardoned as non-president.

CONCLUSION

This petition arises from the United States Court of Appeals and the District Court Orders opposing and invalidating the Law and the Constitution of the United States, on the ground of illegaly reversed subject matter of my Complaint, to render me helpless to redress the deprivation of the Civil Rights secured by the Constitution and the Law against injustice and conspiracy under color of law and authority at the State.

For the foregoing reasons it is respectfully requested for Writ of Certiorari, to review the Orders of the United States Court of Appeals and the District Court and the trial of my allegations be ordered, to verify the facts, in the order to secure constitutionality and legality at the courts of the State in matrimonial matters.

It is also requested that the trial be in the federal court, under supervision of

this Court, before the Grand Jury because of the nature of the case, in the public interest, and because only the bigger number of the jurors can secure the justice and oppose possible corruption.

Respectfully submitted,

CONSTANTIN STEPANENKO
Petitioner

APPENDIX A

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE
13 Roszel Road
CN 14
Princeton, New Jersey 08540
Telephone 609-452-9500

JOHN J. DEGNAN
Attorney General

EDWIN H. STIER
Director

April 2, 1980

Mr. Constantin Stepanenko
Apartment 36E
20 Wendell Street
Hempstead, New York 11550

Dear Mr. Stepanenko:

Your recent letter to Deputy Director Winter has been referred to this office for reply.

We have carefully reviewed the allegations contained in your correspondence to the Division of Criminal Justice and the Bergen County Prosecutor and have concluded that they must properly be resolved by the civil courts. Accordingly, we agree with the Prosecutor's decision that there is no basis for instituting criminal proceedings.

We regret that we are unable to be of

further assistance to you in this matter.

Very truly yours,

s/
James J. Morley
Deputy Attorney General
Prosecutors Supervisory Section

APPENDIX B

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Civ 80-1314

CONSTANTIN STEPANENKO Plaintiff,

vs.

EDWARD J. VANTASSEL, et als., Defendants.

O R D E R

For the reasons stated in the Memorandum of even date,

It is on this 22nd day of October, 1980

ORDERED that the complaint be, and the same hereby is, dismissed for lack of subject matter jurisdiction.

FURTHER ORDERED that the dismissal be without costs in view of plaintiff's pro se status.

s/ Vincent P. Biunno, U.S.D.J.

UNITED STATES DISTRICT COURT
Room 411, U.S. Post Office Building
Newark, New Jersey 07102

Vincent P. Biunno
Judge

MEMORANDUM

Re: Stepanenko v. Van Tassel, et als.
Civ 80-1314

The file in this case has come to the court's attention as the result of briefs submitted on various motions filed. The court has reviewed the entire file, and finds that it lacks subject-matter jurisdiction. For that reason, it has no choice but to dismiss the complaint. This step is authorised by the rules whenever it appears that the court has no authority to hear and decide a case, see F.R. Civ.P. 12(h)(3).

So that plaintiff, who is pro se, will understand, it is explained here that the federal courts are only allowed to hear and decide those matters allowed by federal law. They are not like the general courts of the States, such as the Superior Court of New

Jersey, which has original general jurisdiction over all causes throughout the State of New Jersey.

The complaint does not tell the court what basis for jurisdiction is claimed. If a lawyer had filed the complaint, that defect alone would have been enough to authorize the court to dismiss the case. Since plaintiff is not a lawyer but files pro se, the court has examined the file to see if the facts presented suggest some basis for jurisdiction.

It appears that plaintiff was party to a divorce case in Superior Court, Bergen County, Docket M 25640-76. His case was heard and dealt with in various respects by Judge Van Tassel, Judge DiGisi and Judge Sorkow, who entered various orders for support pendente lite, for plaintiff's commitment (and later released) for failure to make payment, and like. Whether the divorce case is over or not does not appear, but this is not of any significance.

Plaintiff sues the three judges, plus his wife's lawyer and his own lawyer. He says he does not want relief, but only justice. He obviously is dissatisfied with the order setting support pendente lite at $20. a week, and no doubt is convinced in his own mind that the evidence presented was false, the transcripts inaccurate, and the three judges and two lawyers interested only in securing an unjust result.

The federal courts have never been given authority to hear and decide matrimonial cases. See Barber v. Barber, 62 U.S. 582 (1858), In re Burrus, 136 U.S. 586 (1890); Sosna v. Iowa, 419 U.S. 393 (1975); Solomon v. Solomon, 516 F.2d 1018 (CA 3, 1975); Watson v. Manhattan, etc., 487 F. Supp. 1273, at 1277 (D.N.J. 1980).

If plaintiff feels the orders are wrong or unjustified or otherwise open to challenge, he may appeal to the Superior Court, Appellate Division, and if dissatisfied there,

may either appeal or ask for certification to the Supreme Court of New Jersey. From there he can seek further review by appeal or petition for certiorari in the Supreme Court of the United States. This court, however, cannot hear and decide his case.

October 22, 1980

s/ Vincent P. Biunno, U.S.D.J.

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 80-2661

CONSTANTIN STEPANENKO,
Appellant

v.

EDWARD J. VAN TASSEL, CHARLES R. DI GISI, HARVEY SORKOW, LYNNE STROBER & VICTOR HART

(Civil No. 80-01314 - D.N.J. - Newark)

Submitted Under Third Circuit Rule 12(6)
July 27, 1981

BEFORE: SEITZ, Chief Judge, ROSENN and HIGGINBOTHAM, Circuit Judges.

JUDGMENT ORDER

After consideration of the contentions raised by appellant, it is

ADJUDGED AND ORDERED that the judgment of the district court be and is hereby affirmed.

Costs taxed against appellant.

By the Court,

s/ _____
Chief Judge

DATED: JUL 29, 1981

APPENDIX D

This is a part of the page (2) two of the Brief for appellee, Victor Hart, filed in the U.S. Court of Appeals.

.....

"A motion to dismiss plaintiff's complaint for lack of subject matter jurisdiction and/or failure to state a claim upon which relief could be granted was heard by the Honorable Vincent P. Biunno on October 20,1980 and resulted in the entry of his October 22, 1980 Order (A1 and A2). The appellant now seeks review of Judge Biunno's October 22, 1980 Order."

APPENDIX E

COMPLAINT

To the United States District Court for the District of New Jersey.

Plaintiff, CONSTANTIN STEPANENKO	DOCKET NO. 80-1314
VS.	CRIMINAL ACTION
Defendants, 1. EDWARD J. VAN TASSEL 2. CHARLES R. DI GISI 3. HARVEY SORKOW 4. LYNNE STROBER 5. VICTOR HART	ORGANIZED CRIME AND CONSPIRACY COMPLAINT

Original Filed
May 8, 1980

Plaintiff, CONSTANTIN STEPANENKO, residing at 20 Wendell Street, Apartment 36E, in the Village of Hempstead, County of Nassau and State of New York, says:

1. I was plaintiff in a civil action, divorce case, at the Superior Court of the State of New Jersey, Chancery Division, Bergen County, Hackensack. Docket No.M 25640-76.

2. I have to make this Complaint against named above defendants because of their illegal, unlawful, and unconstitutional activity at a court. They committed a high crime to

make me defective, supporting and rewrding false and fraud and obstructing me in the Justice.

3. EDWARD J. VAN TASSEL, the judge of the Bergen County Court, Hackensack, New Jersey.

On July 31, 1978 ordered me to pay a support to my wife:

a. Neglecting a fact that my wife did not show any justifiable reason to leave and to destroy marital home.

b. Neglecting a fact she refused to come back to live with me.

c. Neglecting his own order of June 2, 1978, to produce income informations. The order for support was on the ground of wife's false Supporting Certification and nothing else.

Negligence in someone's behalve is illegal, it is a crime.

4. CHARLES R. DI GISI, the judge of the Bergen County Court, Hackensack, New Jersey.

a. He punished me, instead my wife, when I proved that my wife's Supporting Certification was false and fraud, ordering me to pay my wife's trip from Miami, Florida, to Hackensack, New Jersey, for a new hearing for support.

b. His order for a new hearing for support was illegal because the judgement for support was made by the judge Van Tassel. He ordered this hearing, evidently, to support and to reward false and fraud.

c. He intentionally neglected the fact that my wife left marital home by her free will whether is there fault or not. To support and to reward desertion by a wife.

d. He misleaded and deluded the Court at the trial reversing and neglecting the facts.

e. He is responsible for false Transcript of the trial to obstruct me in the Justice, to unable me to appeal his judgement.

4. HARVEY SORKOW, the judge of the Bergen County Court, Hackensack, New Jersey. He

chained and torched me in the jail, illegaly, because:

a. I had no mony to meet the judge Di Gisi's order, to pay my wife's trip from Miami, Florida, to Hackensack, New Jersey, for illegal hearing for support.

b. He know that my wife is a working woman supported in her affair by our two adult sons.

c. Even I said that I had no proper defence.

d. Without a written the judge Di Gisi's order, that I shall to pay my wife's trip, so I could not to appeal this illegal order, which was never made.

5. LYNNE STROBER, the attorney of my wife, a member of Citrino, Balsam & Di Biasi, Attorneys Office, 345 Centre Street, Nutley, New Jersey.

a. Managed a crime in conspiracy with the judges of the Bergen County Court, Hackensack, New Jersey.

b. Evidently committed a crime in conspiracy with the judges Di Gisi and Harvey Sorkow, when I was chained and torched, unabled to appeal the judge Di Gisi's illegal order and without a proper defence.

6. VICTOR HART, my former attorney, a member of Gladstone, Hart, Mandis, Rathe & Shedd, Attorneys Office, 39 Hudson Street, Hackensack, New Jersey.

a. Misinformed me making Complaint for Divorce on the ground of 18 months separation instead on the ground of desertion and abandonment as it was.

b. Abandoned me when the judge Di Gisi illegaly ordered me to pay my wife's trip for a new hearing for support.

c. Failure of my former attorney, Victor Hart, does not excuse the judges of their Legal and Constitutional Responsibilites. Opposite, it shows cooperation and conspiracy between the attorneys and the judges to make the people defective.

8. Before I made this Complaint, I made at the State of New Jersey, Law and Public Safety Department, Attorney General, a Request for an investigation and a trial against organized crime at the Bergen County Court.

But, the facts were neglected and disregarded because, by the letter, I received from James J. Morley, Deputy Attorney General, of April 2, 1980, filed in the Central Records (CJ-80-292), a high crime is legalized in the State of New Jersey, to make the people defective, so the lawyers can make a profit.

By James J. Morley, Deputy Attorney General, my allegations must be resolved by the civil court, and accordingly, there is no basis for instituting criminal proceeding.

a. There is nothing I can do nor any attorney, at a court, where a high crime is organized, to make the people defective.

b. I experienced illegal, unlawful, and unconstitutional activity by the judges. Three judges supported each other in a crime, com-

mitted a crime themself, started with the judge Van Tassel.

c. More then that, I was punished, chained and torched by the judges when I proved false and fraud.

d. What I can expect in a further action at a civil court.

e. I can make an action at a civil court only when justice will be granted. It can be done, only, when a crime at a court will be condemned.

8. Because of the reasons pointed in this Complaint, I request for a trial and my rehabilitation, before a jury, since I lost a trust to the judges, if I have any constitutional rights as a citizen of this Country. Shall I to appeal to the public.

s/ Constantin Stepanenko